Calendar No. 132

101ST CONGRESS *1st Session*	SENATE	REPORT 101-57

NOMINATION OF RICHARD HARRISON TRULY, TO BE ADMINISTRATOR, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1180

JUNE 20 (legislative day, JANUARY 3), 1989.—Ordered to be printed

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JUNE 20 (legislative day, JANUARY 3), 1989.—Ordered to be printed

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Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1180]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1180) to authorize the President to appoint Rear Adm. Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration, having considered the same, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE BILL

The bill, S. 1180, allows the appointment of Adm. Richard H. Truly to serve as Administrator of the National Aeronautics and Space Administration (NASA), waiving the statutory requirement that this position be held by a civilian. The waiver is needed to allow Admiral Truly to retain his status as a retired officer in the U.S. Navy.

BACKGROUND

When NASA was created in 1958, a conscious effort was made to guarantee the "civil character" of the agency. One means of ensuring that quality was the requirement contained in section 202(a) of the National Aeronautics and Space Act of 1958, (Space Act) that the Administrator and Deputy Administrator of NASA be appointed by the President from civilian life.

Prior to the nomination of Admiral Truly, there has never been a nominee for either the Administrator or Deputy Administrator slot who was a military person. Admiral Truly is the first.

Admiral Truly has initiated his retirement from the U.S. Navy. However, a review of the legislative history of the term "from civilian life" indicates that this term excludes active duty military personnel and retired military personnel. To meet the strict interpretation of the term, a person would have to resign his commission and give up his military benefits and pension to be considered "civilian" if he was career military.

In order to allow the Congress to consider the nomination of Richard H. Truly as Administrator, Dale Myers, the then-Acting Administrator of NASA, submitted legislation on April 19, 1989, that had been approved by the Office of Management and Budget. As a matter of fact, the President made reference to the requirement for a legislative waiver when he announced the nomination of Admiral Truly.

Based on its review of that proposal, the Senate, in cooperation with the House of Representatives, formulated the text of S. 1180.

LEGISLATIVE HISTORY

S. 1180 was introduced on June 14, 1989, by Senator Hollings and cosponsored by Senators Gore, Danforth, Pressler, and Cochran. The intent of this language and its ramifications were discussed by the Committee at the Truly nomination hearing on Friday, June 16, 1989.

On June 20, 1989, the Committee met in open executive session to consider S. 1180. The Committee without objection ordered the bill reported.

SUMMARY OF THE BILL

The reported bill allows Admiral Truly to serve as the Administrator of NASA notwithstanding the provisions of section 202(a) of the Space Act (42 U.S.C. 2472(a)). As noted in section 3 of the bill, this exception applies only to Admiral Truly and does not eliminate the civilian requirement for subsequent Administrators and Deputy Administrators of NASA.

The reported bill makes it clear that the provisions of subchapter IV of chapter 55 of title 5, United States Code (formerly the Dual Compensation Act) apply to Admiral Truly. The net result of the application of those provisions is that Admiral Truly will have his military retirement pay reduced by a formula contained in subchapter IV while he serves as the Administrator of NASA. Upon the termination of Admiral Truly's service as the Administrator of NASA, he will retain all of the benefits of military retirement.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 20, 1989.

Hon. ERNEST F. HOLLINGS,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1180, a bill to authorize the President to appoint Rear Adm. Richard Harrison Truly to the Office of Administrator of the National Aeronautics and Space Administration, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on June 20, 1989.

CBO estimates that enactment of this bill would result in no cost to the Federal Government, or to any state or local government. S. 1180 would waive the requirement that the Administrator of the National Aeronautics and Space Administration be a civilian and allow the President to appoint as Administrator Adm. Richard H. Truly, a retired officer of the United States Navy.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Michael Sieverts, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

The bill, as reported, allows Admiral Truly to serve as the Administrator of NASA. It will have no effect on the number of individuals regulated or on the personal privacy of such persons. No increase in the amount of paperwork will result from enactment of this bill nor will it have any economic impact.

SECTION-BY-SECTION ANALYSIS

Section 1

This section provides that notwithstandintg any other provision of law, Adm. Richard Harrison Truly may serve as the Administrator of NASA. This service, of course, would be subject to the confirmation of Admiral Truly by the Senate after the enactment of S. 1180 into public law.

Further, this section provides that Admiral Truly shall retain all the features of his military retirement, subject to the provisions of subchapter IV of chapter 55 of title 5, U.S. Code (formerly the Dual Compensation Act).

Section 2

This section provides that Admiral Truly will not be subject to any additional control by the military as a result of his retired military status.

Section 3

This secton indicates that this bill is not to be construed as approving the continuing appointment of military persons as Administrator or Deputy Administrator of NASA.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.

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